



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,325	09/18/2003	Juan Carlos Coronado	02894-595001 / 06735-PT10	8375
26161	7590	05/06/2008	EXAMINER	
FISH & RICHARDSON PC P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			JACYNA, J CASIMER	
			ART UNIT	PAPER NUMBER
			3754	
			MAIL DATE	DELIVERY MODE
			05/06/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/666,325	<b>Applicant(s)</b> CORONADO ET AL.	
	<b>Examiner</b> J. Casimer Jacyna	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-41 and 43-72 is/are pending in the application.
- 4a) Of the above claim(s) 3-5,9-18,21,22,27-33,40 and 52-68 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-26,34-39,41 and 43-51 is/are allowed.
- 6) ☒ Claim(s) 1,2,6-8,19,20 and 69-72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

1. Claims withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/8/2005.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 2, 6, 7, 19, 20, 69, 70, 73 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Di Girolamo (4,357,861) in view of Lowe (7,036,687) and Crisp, III et al. (6,766,656). Di discloses a beverage mixer including a mixing chamber 8, an upper feed opening 7, an extract container 4 and a metering device 6 substantially as claimed but does not disclose an overall housing with a fill opening over the feed opening. However, Lowe and Crisp teach other beverage mixers and teach that it is generally well known in the art for beverage mixers to have overall housings as are 10 in Lowe and 12 in Crisp for the purpose of protecting the components of the beverage mixers from damage and contamination wherein the housings include fill openings as are 64 in Lowe and 94 in Crisp that allow access to the entrance of the feed opening to the mixing chambers 61 in Lowe and 34 in Crisp as claimed for the purpose of allowing a user to better and more easily clean and add cleaning or rinsing fluids to the feed openings and mixing chambers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the beverage mixer of Di with a housing having a feed opening as, for example, taught by Lowe and Crisp in order to protect the components of the beverage mixer from damage and contamination and to allow a user to better and more easily clean and add cleaning or rinsing fluids to

the feed openings and mixing chambers. In regard to claim 73, Girolamo discloses a first mixing chamber surrounding the upper portion of rod 16 with an entrance 7 and a second mixing chamber 8 with a rotor 9 which chamber could be used for cream as claimed.

4. Claims 1, 2, 6-8, 19, 20 and 69-74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Di Girolamo (4,357,861) in view of Lowe (7,036,687). Di discloses a beverage mixer including a mixing chamber 8, an upper feed opening 7, an extract container 4 and a metering device 6 substantially as claimed but does not disclose an overall housing with a fill opening over the feed opening. However, Lowe teaches another beverage mixer having an overall housing 10 for the purpose of protecting the components of the beverage mixers from damage and contamination wherein the housing includes a fill opening 64 that allows access to the entrance of the feed opening to the mixing chambers 61 as claimed for the purpose of allowing a user to better and more easily clean and add cleaning or rinsing fluids to the feed openings and mixing chambers. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the beverage mixer of Di with a housing having a feed opening as, for example, taught by Lowe in order to protect the components of the beverage mixer from damage and contamination and to allow a user to better and more easily clean and add cleaning or rinsing fluids to the feed openings and mixing chambers. In regard to claim 73, Girolamo discloses a first mixing chamber surrounding the upper portion of rod 16 with an entrance 7 and a second mixing chamber 8 with a rotor 9 which chamber could be used for cream as claimed.

5. Applicant's arguments filed 2/13/2008 have been fully considered but they are not persuasive. One of ordinary skill in the art would have considered the apparatus of Girolamo to inherently include a housing because virtually all brewing apparatus are inside a housing both to protect the machinery from damage and to protect users from being injured by the moving parts. Patentees often do not disclose elements that are well known in the art. Girolamo also discloses a feed opening 7 into the mixing chamber as claimed. Girolamo only lacks having an opening in the housing. Lowe and Crisp clearly teach providing openings in an outer housing to access mixing chambers. One of ordinary skill in the art would have considered these teaching to be obvious to apply to Girolamo and provide Girolamo with an access opening in the housing for mixing chamber feed opening 7. Whether or not Crisp and Lowe disclose the method step of adding ingredients through their respective openings is not material to the rejection, although one could add ingredients into the mixing chambers of Lowe and Crisp if a user desired to do so. Girolamo does mix a soluble powder from container 4.
6. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.
7. Claims 23-26, 34-39, 41 and 43-51 are allowed.
8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

Art Unit: 3754


mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Casimer Jacyna whose telephone number is 571-272-4889. The examiner can normally be reached on Wed. thru Fri. 9AM-7PM, Mon. 7AM-1PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Casimer Jacyna/  
Primary Examiner, Art Unit 3754

<b>Application Number</b> 	<b>Application/Control No.</b>	<b>Applicant(s)/Patent under Reexamination</b>	
	10/666,325	CORONADO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	J. Casimer Jacyna	3754	